

21.02.2024
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allowed

CRM (DB) No. 391 of 2024

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Dhantala Police Station Case No. 790 of 2023 dated 06.11.2023 under Sections 376/417/195(A) of the Indian Penal Code.

And

In Re : Prosenjit Sen @ Prasenjit Sen petitioner

Mr. Ranadeb Sengupta
Mr. Sachit Talukdar
Mr. Karan Bapuli

....for the petitioner

Mr. Sandip Chakraborty

.... for the State

1. Learned Counsel for the petitioner submits initially he was falsely implicated in a case alleging cohabitation on false promise of marriage by the de facto complainant. He was granted pre-arrest bail by this Court. While he was facing trial in the said case this case was registered on a false accusation of rape in a hotel. Allegations are inherently improbable. He is in custody for 106 days and investigation is complete. Accordingly, he prays for bail.

2. Learned Counsel for the State opposes the bail prayer and submits petitioner while on bail called the de facto complainant/victim to a hotel and forcibly raped her.

3. In spite of notice nobody appears for the de facto complainant/lady.

4. We have considered the materials on record. Petitioner was implicated in an earlier case alleging he had

cohabited with the de facto complainant on the false promise of marriage. A Bench of this Court in CRM (A) 3691 of 2022 granted him pre-arrest bail. Thereafter petitioner has been implicated in the present case on the allegation that on 5th November, 2023 he had called the lady to a hotel and forcibly ravished her. It is strenuously contended that the allegations are patently false and petitioner has been falsely implicated to circumvent order of pre-arrest bail passed in the earlier case.

5. We have considered the allegations in the light of the aforesaid submissions made at the Bar. We take note of the fact that the victim lady did not disclose the name of the hotel where she had been raped. No investigation with regard to the place of occurrence i.e. the hotel had been undertaken. Credibility of the allegations requires to be assessed in the light of the aforesaid lacunae in the prosecution case during trial. Investigation is complete. There is no chance of abscondence. Accordingly, we are inclined to grant bail to the petitioner.

6. Accordingly, we direct that the petitioner shall be released on bail upon furnishing a bond of Rs.10,000/- with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ranaghat, Nadia, subject to conditions that petitioner shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

7. In the event the petitioner fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to

cancel his bail in accordance with law without further reference to this Court.

8. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)